

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of WATKINS, Minors.

UNPUBLISHED

May 22, 2014

No. 318506

Kent Circuit Court

Family Division

LC Nos. 12-052058-NA;

12-052059-NA

Before: MURPHY, C.J., and O'CONNELL and K. F. KELLY, JJ.

PER CURIAM.

Respondent-mother appeals as of right the trial court's order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i) (conditions of adjudication continue to exist), (c)(ii) (other conditions exist that could have caused the child to come within the court's jurisdiction and they have not been rectified), and (g) (failure to provide proper care and custody). We affirm.

On appeal, respondent argues that the trial court clearly erred in finding that there was clear and convincing evidence establishing the statutory grounds for termination and that the court clearly erred in finding that termination was in the best interests of the children.

If a trial court finds that a single statutory ground for termination has been established by clear and convincing evidence and that it has been proven by a preponderance of the evidence that termination of parental rights is in the best interests of a child, the court is mandated to terminate a respondent's parental rights to that child. MCL 712A.19b(3) and (5); *In re Ellis*, 294 Mich App 30, 32; 817 NW2d 111 (2011); *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013). "This Court reviews for clear error the trial court's ruling that a statutory ground for termination has been established and its ruling that termination is in the children's best interests." *In re Hudson*, 294 Mich App 261, 264; 817 NW2d 115 (2011); see also MCR 3.977(K). "A finding is clearly erroneous if, although there is evidence to support it, we are left with a definite and firm conviction that a mistake has been made." *In re HRC*, 286 Mich App 444, 459; 781 NW2d 105 (2009). In applying the clear error standard in parental termination cases, "regard is to be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it." *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

The record establishes that, when the children were taken into care, respondent was relying on the children's Supplemental Security Income (SSI) to support herself and the children. After the children were taken into care in August 2012, respondent collected the children's SSI

for another six months until the funds were “rerouted” to the state. Respondent was told to submit proof of her employment, but she failed to do so throughout the proceedings despite her claims that she was employed. At the termination hearing, respondent testified that she had full time employment; however, she did not provide documentation to support this contention. Further, the trial court did not find respondent’s testimony to be credible, and we give deference to that credibility assessment. The record therefore establishes that respondent failed to show that she had obtained employment at any point during the proceedings.

The record further establishes that respondent failed to address her mental and emotional instability during the proceedings. Respondent was ordered to participate in a psychological evaluation. Although this was scheduled to be completed on December 10, 2012, respondent failed to attend this appointment and did not complete the evaluation until March 2013. Respondent was diagnosed with “mixed personality disorder with borderline and narcissistic features.” The doctor did not make any recommendations for treatment because she did not believe that respondent would commit to attending “intensive” therapy, which is the method for treating personality disorders. The doctor adamantly opined that respondent was incapable of meeting the needs of the children and that the children would not be safe in her care. Although respondent was provided with a referral so that she could begin mental health counseling in April 2013, she refused to attend. Respondent did not seek therapy until the weeks leading up to termination.

Moreover, respondent was dishonest, hostile, and unpredictable during the proceedings. In the months leading up to termination, she was “banned” from the agency and her parenting time was suspended because of her behavior. The record supports that respondent made false allegations to Child Protective Services regarding the foster parents, and respondent displayed photographs and made statements on Facebook that were reasonably considered to be threatening toward the foster parents. Respondent also made comments about the agency’s lack of cameras and security, noting that anyone could come in and “shoot up the place.” She also referred to people taking “the law into their own hands,” stating that she would willingly spend her “life in prison” so long as the children were not with the foster parents. At the termination hearing, respondent admitted that she made the statements, but she minimized the serious nature of the threatening comments.

Additionally, both of the children were diagnosed with Asperger’s Syndrome; pervasive developmental disorder, not otherwise specified; and Rett Syndrome. Although the children required structure and became very upset when their routines were interrupted, respondent failed to attend 65 percent of her parenting time visitations between September 2012 and May 2013. When respondent attended the visits, the children “rarely” acknowledged her presence. While respondent argues on appeal that the parent-child bond “suffered” because the trial court suspended her parenting time, the record establishes that her parenting time was suspended because of her “hostile” behavior. Thus, the fact that respondent had not seen the children for four months at the time of termination was directly attributable to respondent’s actions.

Further, the record reflects that there were housing issues, that respondent had continued for some time a relationship fraught with domestic violence despite a no-contact order being in place, that one of the children was born with marijuana in his system, that respondent refused to participate in numerous drug screenings, that respondent substantially failed to comply with her

obligations in the parent-agency agreement, and that respondent either did not take advantage of or benefit from services provided to her. There was also evidence that the children were thriving in foster care, had bonded with the foster parents, and that the children were in a stable and safe environment for the first time in their lives.

Given the record alluded to above, we hold that the trial court did not clearly err in finding that there was clear and convincing evidence establishing the statutory grounds for termination, nor did the court clearly err in finding that termination was in the best interests of the children.

Affirmed.

/s/ William B. Murphy
/s/ Peter D. O'Connell
/s/ Kirsten Frank Kelly